IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7071 of 2007()

CRIME NO.442/07 OF GANDHINAGAR POLICE STATION

PETITIONER/ACCUSED

MANOJ KUMAR N

BY ADV. SRI.MOHAN IDICULLA ABRAHAM

RESPONDENTS: COMPLAINANT/ STATE
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1. **STATE OF KERALA REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.**

2. **THE SUB INSEPCTOR OF POLICE GANDHINAGAR POLICE STATION GANDHINAGAR P.O., KOTTAYAM.**

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.7071 of 2007

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Dated this the 20th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered, inter alia, under Section 326 IPC. The alleged incident took place on 12.8.07. The petitioner is a salesman of a toddy shop. The victim/injured had come to the shop to consume toddy. There occurred some disputes between the petitioner and the victim. The petitioner had allegedly taken a log of firewood and beat the injured. He suffered fracture of the skull bone. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. The petitioner was not the aggressor. The de facto complainant had attacked the petitioner after consuming the liquor. The petitioner does not deserve to suffer the trauma of arrest and incarceration in prison. In these circumstances, anticipatory bail may be granted to the petitioner, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor stoutly opposes the

application. Serious injury has been suffered by the victim/injured. There are no features in this case suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

4. Having considered all the relevant inputs, I am not able to perceive any features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This I agree with the learned Public Prosecutor is a fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/True Copy/

P.A To Judge